

## **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Patrick Lynn, Police Chief/954-693-8320

**PREPARED BY:** Daniel J. Stallone, Esq., Code Compliance Official

**SUBJECT:** Ordinance

**AFFECTED DISTRICT:** All

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF THE TOWN OF DAVIE BY AMENDING TOWN CODE SECTION 12-243(D)(1) ENTITLED "ELECTION CAMPAIGN SIGNS"; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.(Tabled from December 2, 2009)

**REPORT IN BRIEF:** It is the purpose of this ordinance to regulate the requirements for placement, schedule, and applicable relevant criteria related to the use of election campaign signs in the Town. This ordinance seeks to balance the effects upon the public's aesthetics and safety, with the provision of an adequate forum that communicates election campaign messages for the citizens of the Town. First Reading on 10/7/09.

**PREVIOUS ACTIONS:** On October 7, 2009 Councilmember Caletka made a motion, seconded by Councilmember Starkey, to approve subject to the 50 foot separation of signs for the same candidate; and corner lots to be treated differently.

In a voice vote, the vote was as follows: Mayor Paul– yes; Vice-Mayor Crowley – yes; Councilmember Caletka – yes; Councilmember Luis– absent; Councilmember Starkey – yes. **(Motion carried 4-0)**

On December 2, 2009 Vice Mayor Crowley made a motion, seconded by Councilmember Starkey to table this item to the December 16, 2009 agenda.

In a voice vote, the vote was as follows: Mayor Paul– yes; Vice-Mayor Crowley – yes; Councilmember Caletka – yes; Councilmember Luis– no; Councilmember Starkey – yes. **(Motion carried 4-1)**

**CONCURRENCES:**

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):** Motion to approve ordinance

**Attachment(s):** Ordinance

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF THE TOWN OF DAVIE BY AMENDING TOWN CODE SECTION 12-243(D)(1) ENTITLED "ELECTION CAMPAIGN SIGNS"; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Police Department's Code Compliance Division desires to amend Chapter 12-243(D)(1) which is entitled "Election Campaign Signs"; and

WHEREAS, it is in the interest of the residents and citizens of the Town of Davie to insure that all political and election campaign signs in the town shall adhere to the necessary code requirements to insure aesthetically appropriate and safe placement of such signs; and

WHEREAS, the Town Council of the Town of Davie is satisfied that their concern for maintaining the Town's aesthetics while providing equitable regulations for political and election campaign signs that will insure through appropriate usage that the public health, safety and welfare has been addressed through the amendment and revision of this code; and

WHEREAS, by the enactment of the code revisions in this ordinance, the Town Council will insure the creation of fair and equitable procedures that will enable the Town to regulate both the impact upon the Town's aesthetics and the assurance of the citizens' public safety while providing reasonable parameters for all political and election campaign signs placed in the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. Purpose. It is the purpose of this ordinance to regulate the requirements for placement, schedule, and applicable relevant criteria related to the use of election campaign signs in the Town. This ordinance seeks to balance the effects upon the public's aesthetics and safety, with the provision of an adequate forum that communicates election campaign messages for the citizens of the Town. It is also intended to establish reasonable and uniform regulations to preclude the proliferation of illegal or unsafe signs in any election campaign period, with the appropriate application of existing code enforcement methods. It is not the purpose or the effect of this ordinance to impose a limitation or restriction upon the use of election campaign signs but only to insure that the appropriate requirements are clearly identified and effectuated by such provisions.

SECTION 2. Definitions.

Political or election campaign signs. Temporary signs advertising political parties, political agendas or candidates for election.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

SECTION 5. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009

PASSED ON SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009

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MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009

12-243 (D) *Temporary Signs:*

(1) *Election campaign signs.* Temporary signs advertising political parties or candidates for election may be erected or displayed and maintained provided that:

(a) The size of any such sign is not in excess of sixteen (16) square feet.

(b) The election campaign signs shall not be erected or displayed earlier than ~~thirty (30)~~ sixty (60) days prior to the election to which they pertain; the placement of any such sign requires the permission and consent of the property owner. A list of locations must be filed at the time of deposit (see paragraph (e) below).

(c) The political party or candidate, or an authorized agent, deposits with the town clerk the sum of ~~one three~~ three hundred dollars (\$~~1300.00~~ 300.00) ~~per each thirty (30) signs erected, or fraction thereof,~~ as a guarantee that all the election campaign signs will be removed within seven (7) days after the date of the election to which the signs relate. If the signs are not removed at the end of the seven-day period, the town shall have them removed and ~~keep be due the full~~ appropriate cost recovery fee sum from the deposited as reimbursement to reimburse the town for actual expenses incurred and as identified in town code section 6-9(c).

(d) The provisions of this section shall not apply to what are commonly referred to as "bumper stickers" or "car-top" signs when such signs are placed on motor vehicle bumpers or tops, respectively.

(e) No political or election signs of any type or size, advertisements, handbills, snipe signs or billboards shall be placed on public property owned or used by the town or by other governmental agencies or units in the incorporated areas of the town except when permission and consent is provided by the town or governmental agency; unapproved signs shall be removed immediately.

(f) Any violation of this section shall result in the forfeiture of the appropriate cost recovery fee from the deposit required under paragraph (c) above and shall be subject to further ordinance enforcement penalties.

(g) No election campaign sign shall be placed or maintained in a manner that causes it to be a nuisance to the public health, safety or welfare due to its location, state of disrepair, or by placement in the sight triangle as noted in town code section 12-109(A); if any election campaign sign shall be a nuisance, the town is hereby authorized to remove the sign immediately.

(h) Severability.

This chapter and its sections hereunder, are hereby declared to be independent divisions, and notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any section of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections and the application of such sections to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections would have been passed independently of such section or provision so known or found to be invalid. Should any procedural aspect of this chapter be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this chapter.

ORDINANCE \_\_\_\_\_

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WHEREAS, it is in the interest of the residents and citizens of the Town of Davie to insure that all political and election campaign signs in the town shall adhere to the necessary code requirements to insure aesthetically appropriate and safe placement of such signs; and

WHEREAS, the Town Council of the Town of Davie is satisfied that their concern for maintaining the Town's aesthetics while providing equitable regulations for political and election campaign signs that will insure through appropriate usage that the public health, safety and welfare has been addressed through the amendment and revision of this code; and

WHEREAS, by the enactment of the code revisions in this ordinance, the Town Council will insure the creation of fair and equitable procedures that will enable the Town to regulate both the impact upon the Town's aesthetics and the assurance of the citizens' public safety while providing reasonable parameters for all political and election campaign signs placed in the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. Purpose. It is the purpose of this ordinance to regulate the requirements for placement, schedule, and applicable relevant criteria related to the use of election campaign signs in the Town. This ordinance seeks to balance the effects upon the public's aesthetics and safety, with the provision of an adequate forum that communicates election campaign messages for the citizens of the Town. It is also intended to establish reasonable and uniform regulations to preclude the proliferation of illegal or unsafe signs in any election campaign period, with the appropriate application of existing code enforcement methods. It is not the purpose or the effect of this ordinance to impose a limitation or restriction upon the use of election campaign signs but only to insure that the appropriate requirements are clearly identified and effectuated by such provisions.

SECTION 2. Definitions.

Political or election campaign signs. Temporary signs advertising political parties, political agendas or candidates for election.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

SECTION 5. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009

PASSED ON SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009

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MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009

Proposed Election Sign Code Revisions

Section 12-243 (D)

(1) Political or election campaign signs. Temporary signs advertising political parties, political agendas or candidates for election may be erected or displayed and maintained provided that:

(a) The size of any such political or election campaign sign is ~~not in excess of~~ shall not exceed sixteen (16) square feet on any commercially zoned property and shall not be greater than four (4) square feet on any residentially zoned property; at no time may any such sign exceed six (6) feet in height as measured from grade; no such sign may be illuminated; no sign shall be displayed without the permission and consent of the property owner.

(b) Sign Display by Zoning District.

(1).RESIDENTIAL: The display of a single political or election campaign signs for each political candidate or agenda item is permitted at any singly-owned residential property, vacant residential lot or each residential property identified by a single folio or identification number; however, when a fifty (50) foot or greater property boundary line exists at a residential lot, then a fifty (50) foot linear separation of such signs for the same candidate or agenda item shall be allowed exist for the same candidate or agenda item along any single street frontage, and all such signs shall be set back at least five (5) feet from the public right of way, except that any singly-owned residential corner lot property shall be permitted to display signage for each political candidate or agenda item at each street frontage when the fifty (50) foot linear separation of the signs of the same candidate and agenda item is observed; as such street frontage linear separation shall be measured from the intersection of the applicable street frontage property boundary lines; and all such signs shall be set back at least five (5) feet from the public right of way, and at no time may any political or election campaign sign or political message sign be permitted to obstruct or hinder traffic visibility or create similar hazardous nuisance conditions, and should any such sign do so, it shall hereby be declared a public nuisance and be subject to immediate removal by the designated town employees.

NOTE: If at a corner lot, a greater than fifty (50) foot linear separation shall exist at any street frontage as overage, then no political or election campaign sign shall be permitted

in that remaining linear street frontage area; for example, if a street frontage equals two hundred thirty (230) linear feet, then the calculation shall permit signs at each fifty (50) linear increment, however, at the remaining thirty (30) feet of street frontage no such sign shall be permitted.

(2). COMMERCIAL and INDUSTRIAL.

The display of a single political or election campaign signs for each political candidate or agenda item is permitted at any singly-owned commercial property, vacant commercial lot or each commercial business property identified by a single folio or identification number; however, when a fifty (50) foot or greater property boundary line exists at a commercial lot, then a fifty (50) foot linear separation of such signs for the same candidate or agenda item shall be allowed exist for the same candidate or agenda item along any single street frontage, and all such signs shall be set back at least five (5) feet from the public right of way, except that any singly-owned commercial corner lot property shall be permitted to display signage for each political candidate or agenda item at each street frontage when the fifty (50) foot linear separation of the signs of the same candidate and agenda item is observed; as such street frontage linear separation shall be measured from the intersection of the applicable street frontage property boundary lines; and all such signs shall be set back at least five (5) feet from the public right of way, and at no time may any political or election campaign sign or political message sign be permitted to obstruct or hinder traffic visibility or create similar hazardous nuisance conditions upon said property, and should any such sign do so, it shall hereby be declared a public nuisance and be subject to immediate removal by the designated town employees.

NOTE: If at a corner lot, a greater than fifty (50) foot linear separation shall exist at any street frontage as overage, then no political or election campaign sign shall be permitted in that remaining linear street frontage area; for example, if a street frontage equals two hundred thirty (230) linear feet, then the calculation shall permit signs at each fifty (50) linear increment, however, at the remaining thirty (30) feet of street frontage no such sign shall be permitted.

(c) The political or election campaign signs shall not be erected or displayed earlier than thirty (30) days prior to the election to which they pertain except as noted herein. A list of locations must be filed at the time of deposit (see paragraph (c) below). All political parties, political candidates, political action committees or authorized agents shall use the a registration form provided herein by the Town Clerk's office prior to the placement of any political or election campaign signs and shall register separately for each election except that a successful party or candidate in its own party's primary elections may maintain its registration with the Town Clerk's Office for the subsequent election that will occur in the same election cycle.

(e) (d) The political party or candidate, or an its authorized agent deposits with the town clerk the sum of one hundred dollars (\$100.00) per each thirty (30) signs erected, or fraction thereof, as a shall guarantee insure that all the of their political or election campaign signs on approved public property will be are removed within seven (7) days after the date of the election to which the signs relate, though a successful political party or candidate may maintain such signs after a primary election for the a subsequent election that will occur in the same election cycle.

~~(d)~~ (e) The political and election campaign signs shall be properly disposed of and the town encourages the political party or candidate, political action committees, authorized agents and citizens to recycle all political and election campaign signs. If the signs are not removed from all locations in the town at the end of the seven (7) day removal period, the town shall initiate enforcement action to have them removed, ~~and keep the full sum deposited~~ The Town shall be reimbursed by the political party, ~~or candidate, political action committee, or an authorized agent~~ or any responsible private property owner the town for expenses incurred in ~~the~~ sign removal which shall equal the cost recovery fee of ten (\$10) dollars per political and election campaign sign retrieved as per the Town's code compliance cost recovery program fine schedule found in town code section 6-9(c). An election sign bond of one hundred dollars shall be submitted to the Town Clerk at the time of application by a candidate for elected office, but no sign bond shall be required for the display of any political or election campaign sign or political message sign on private property. All cost recovery fees that exceed the amount of the sign bond shall be payable to the Town within thirty (30) days after the date for the election from which such fees did accrue. All private property owners and occupants shall be responsible for complying with the provisions of this article and will be liable for any violations that may be found to exist on their own or leased private property including applicable sign retrieval and cost recovery fees.

~~(d-e)~~ (f) The provisions of this section shall not apply to what are commonly referred to as "bumper stickers" or "car-top" signs when such signs are placed on motor vehicle bumpers or tops, respectively.

~~(e-f)~~ (g) No political or election campaign signs of any type or size, advertisements, handbills, snipe signs or billboards shall be placed on property owned or used by the town at any time including but not limited to the town's rights-of-way, swales, medians, poles, trees, fences or buildings. ~~or by other governmental agencies or units in the incorporated areas of the town.~~

~~(g)~~ (h) The Town recognizes the right of other governmental agencies or units in the incorporated areas of the town to permit the display of political and election campaign signs on their jurisdictional properties; however, the Town reserves the right to remove any political and election campaign signs that may inhibit traffic visibility, prohibit or disrupt entry upon public lands or any similar types of nuisance conditions notwithstanding that such signs placed thereupon shall be subject to all further requirements found herein.

~~(h)~~ (i) All political and election campaign signs shall be maintained in an upright condition and kept in good repair during the active election cycle or the signs shall be removed by the Town and applicable sign retrieval cost recovery fees shall apply.

(j) No portion of this code shall be construed to prohibit any citizen or resident of the town from the display of any noncommercial political message upon a sign on their own private property insofar as such sign shall meet the applicable size, height, setback and nuisance considerations stated herein and applicable thereto.

~~(i)~~ ~~(j)~~ (k) Any violation of this section shall result in the forfeiture of the deposit required under paragraph (e) above and shall be subject to further ordinance additional code enforcement action that may result in fines and penalties.

(2) Severability.

This chapter and its sections hereunder, are hereby declared to be independent divisions, and notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any section of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections and the application of such sections to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections would have been passed independently of such section or provision so known or found to be invalid. Should any procedural aspect of this chapter be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this chapter.